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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,013	04/10/2001	Kazuya Fujinaga	Q64034	9560

7590 07/19/2004

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WASHINGTON, DC 20037-3213

EXAMINER

THEIN, MARIA TERESA T

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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6

DATE MAILED:

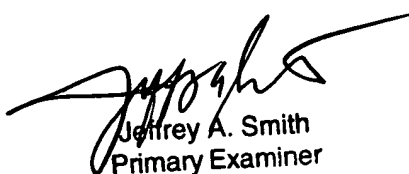
Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The enclosed is a complete and correct copy of the Office Action included with the correct and complete Detailed Action.

Responsive to telephone inquiry of 6 July 2004.

THE PERIOD FOR RESPONSE OF 3 MONTHS SET IN SAID OFFICE ACTION IS RESTARTED TO BEGIN WITH THE DATE OF THIS LETTER.


Jeffrey A. Smith
Primary Examiner
Acting SPE
AU 3625

Office Action Summary

Application No.

09/829,013

Applicant(s)

FUJINAGA ET AL.

Examiner

Marissa Thein

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[Handwritten signature]

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

The drawings filed on April 10, 2001 are acceptable.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claims 1, 7, 15 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "making estimates, and presenting them to the buyer" is unclear and indefinite. The word "estimates" is not defined in the claims. For examination purposes, the word "estimates" will be treated as a generic word.

Claims 3 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

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applicant regards as the invention. The claims recite the limitation "wherein information" which has insufficient antecedent basis for this limitation in the claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4-9, and 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,815,665 to Teper et al. in view of U.S. Patent No. 5,826,244 to Huberman.

Regarding claim 1, Teper discloses an e-commerce brokering method comprising:

- storing public data and non-public data in database of an agent, the public data containing standardized attribute information about a product supplied by the plurality of suppliers, the public data being enable to be viewed so as to compare the attribute information about the product of the respective suppliers with each other (see at least col. 2, lines 35-48; col. 2, lines 62-67; col. 3, lines 54-col. 4, lines 27; col. 5, lines 30-60; col. 8, lines 35-45; col. 8, lines 54-62);
- the buyer's reading and viewing the public data from the data base via the data communication network to select a desired product and to apply to the agent for a transaction of the selected product (see at least col. 4, lines 15-27; col. 11, lines 46-65);

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- the buyer's determining a supplier (see at col. 6, lines 4-13; col. 7, lines 30- 39; col. 11, line 46-col. 12, line 8);
- the agent's carrying out ordering procedures for the buyer and the supplier (see at least col. 5, lines 38-40; col. 4, lines 36-49).

However, Teper does not disclose the transaction rules and purchase conditions.

Teper discloses an Online Broker site, which stores various account information that includes passwords, unique IDS, access rights and bills of the users (col. 8, lines 54-59). Furthermore, the account information includes the user's account plan and optional user-specific customization information which is provided to the Service provider sites to permit the customization of SP services (col. 15, lines 26-34). Huberman, on the other hand, teaches the transaction rules and purchase conditions (see at least col. 10, lines 36-38; col. 3, line 59 – col. 4, line 18; col. 15, lines 37-43).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Teper, to include the transaction rules and purchase conditions, as taught by Huberman, in order to provide a supplier and the customer on an agreed-upon transaction to avoid entering into an unfavorable transaction (Huberman col. 3, lines 59-63).

Regarding claims 2, 9, 17 and 19, the combination of Teper and Huberman substantially discloses the claimed invention, however, the combination does not expressly disclose where the database stores of conversion data indicating corresponding between code systems of different suppliers, the code system including customer codes and product part numbers; and the storing conversion data including

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customer codes varying according to a supplier and product part numbers. However, these differences are only found in the nonfunctional descriptive and are not functionally involved in the steps recited. The steps of storing of conversion data would be performed the same regardless of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to store the conversion data because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

Regarding claims 4 and 11, the combination of Teper and Huberman substantially discloses the claimed invention, however, it does not disclose the viewing of public data freely. The particular way of viewing the public data do not patentably distinguish the claimed method because it imparts no structural or functional specificity. Furthermore, applicant has not persuasively demonstrated that the particular way of viewing the public data is critical or is anything more than one of the numerous ways to view the data that the skilled artisan would have found suitable for the purpose taught by the combination of Teper and Huberman. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide any numerous ways of viewing data in the method taught by the combination because the subjective

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interpretation of the particular way of viewing the data do not patentably distinguish the claimed invention.

Regarding claims 5-6, 12 and 14, Teper discloses the supplier registers, updates, maintains and administers the public data stored in the database (see at least col. 6, lines 14-18; col. 11, line 66 – col. 12, line 8); and the agent stores a record of the ordering procedures in storage means whose data cannot be altered (see at least col. 5, lines 38-47; Figure 4; col. 15, lines 21-34).

Regarding claims 7-8, Teper discloses e-commerce broking method comprising:

- storing public data and non-public data in a database of an agent, the public data containing standardized attribute information about a product supplied by the plurality of suppliers, the public data being enable to be viewed so as to compare attribute information about the product of the respective suppliers with each other (see at least col. 2, lines 35-48; col. 2, lines 62-67; col. 3, lines 54-col. 4, lines 27; col. 5, lines 30-60; col. 8, lines 35-45; col. 8, lines 54-62);
- the buyer's reading and viewing the public data from the database via the data communication network to select a desired product and to apply to the agent for a transaction of the selected product (see at least col. 4, lines 15-27; col. 11, lines 46-65);
- the buyer's starting negotiations with the suppliers (see at least col. 6, lines 4-13; col. 7, lines 30- 39; col. 11, line 46-col. 12, line 8); and
- the agent's carrying out ordering procedures for the buyer and the supplier (see at least col. 5, lines 38-40; col. 4, lines 36-49).

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However, Teper does not disclose the transaction rules and purchase conditions. Teper discloses an Online Broker site, which stores various account informations that include passwords, unique IDS, access rights and bills of the users (col. 8, lines 54-59). Furthermore, the account information includes the user's account plan and optional user-specific customization information, which is provided to the Service provider sites to permit the customization of SP services (col. 15, lines 26-34). Huberman, on the other hand, teaches the transaction rules and purchase conditions (see at least col. 10, lines 36-38; col. 3, line 59 – col. 4, line 18; col. 15, lines 37-43).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Teper, to include the transaction rules and purchase conditions, as taught by Huberman, in order to provide a supplier and the customer on an agreed-upon transaction to avoid entering into an unfavorable transaction (Huberman col. 3, lines 59-63).

Regarding claim 13, Teper substantially discloses the claimed invention, however, it does not disclose the buyer determines a supplier and purchase conditions by using one of the methods of bidding conducted by the agent, individual negotiations, and auction with the suppliers of the same products or services (see at least col. 3, lines 5-18). It would have been obvious to one of ordinary skill in the art at the time of the invention was made modify the method of Teper, to include the bidding, as taught by Huberman, so as to accommodate the buyer demands which can lead to better, more efficient utilization of services and a greater availability of more fairly priced services (Huberman col. 19, lines 18-21).

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Regarding claim 15, Teper discloses an e-commerce broking system:

- a database (see at least col. 2, lines 35-48; col. 2, lines 62-67; col. 3, lines 54-col. 4, lines 27; col. 5, lines 30-60; col. 8, lines 35-45; col. 8, lines 54-62);
- a supplier site (see at least col. 6, lines 13-34);
- a buyer site (see at least col. 6, lines 4-13);
- an agent site (see at least col. 5, lines 30-60); and
- wherein the agent site computer delivers the public data to the buyer site computer, makes estimates on the basis of the non-public data in response to an application for negotiations of the desired product from the buyer site computer, and carries out ordering procedures (see at least col. 4, lines 15-27; col. 11, lines 46-65; col. 6, lines 4-13; col. 7, lines 30-39; col. 11, line 46-col. 12, line 8; col. 5, lines 38-40; col. 4, lines 36-49).

However, Teper does not disclose the transaction rules. Teper discloses an Online Broker site, which stores various account informations that include passwords, unique IDS, access rights and bills of the users (col. 8, lines 54-59). Furthermore, the account information includes the user's account plan and optional user-specific customization information which is provided to the Service provider sites to permit the customization of SP services (col. 15, lines 26-34). Huberman, on the other hand, teaches the transaction rules (see at least col. 10, lines 36-38; col. 3, line 59 – col. 4, line 18; col. 15, lines 37-43).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to the system of Teper, to include the transaction rules, as taught

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by Huberman, in order to provide a supplier and the customer on an agreed-upon transaction to avoid entering into an unfavorable transaction (Huberman col. 3, lines 59-63).

Regarding claims 16 and 18, Teper substantially disclose the claimed invention, however, Teper does not disclose the transaction rules and purchase conditions. Teper discloses an Online Broker site, which stores various account informations that include passwords, unique IDS, access rights and bills of the users (col. 8, lines 54-59). Furthermore, the account information includes the user's account plan and optional user-specific customization information which is provided to the Service provider sites to permit the customization of SP services (col. 15, lines 26-34). Huberman, on the other hand, teaches the transaction rules and purchase conditions (see at least col. 10, lines 36-38; col. 3, line 59 – col. 4, line 18; col. 15, lines 37-43).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Teper, to include the transaction rules and purchase conditions, as taught by Huberman, in order to provide a supplier and the customer on an agreed-upon transaction to avoid entering into an unfavorable transaction (Huberman col. 3, lines 59-63).

Regarding claim 20, Teper discloses an e-commerce broking method comprising:

- providing a database which stores public data and non-public data, the public data including standardized attribute information about the same kind of products supplied from the plurality of suppliers (see at least col. 2, lines 35-48; col. 2,

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lines 62-67; col. 3, lines 54-col. 4, lines 27; col. 5, lines 30-60; col. 8, lines 35-45; col. 8, lines 54-62);

- presenting the public data to a buyer site computer via digital data communication network so that the buyer can compare a performance and price of the same kind of product of different suppliers to select a supplier supplying a desired product (see at least col. 8, lines 59-62; col. 9, lines 38-49);
- receiving an application from the buyer site computer via the digital data communication network, the application being for transaction for the desired product of the selected supplier (see at least col. 4, lines 15-27; col. 11, lines 46-65);
- receiving a decision from the buyer site computer via the digital data communication network (see at least col. 6, lines 4-13; col. 7, lines 30-39; col. 11, line 46-col. 12, line 8); and
- conducting ordering procedures for the buyer and the supplier (see at least col. 5, lines 38-40; col. 4, lines 36-49).

However, Teper does not disclose the transaction rules and purchase conditions.

Teper discloses an Online Broker site, which stores various account informations that include passwords, unique IDS, access rights and bills of the users (col. 8, lines 54-59).

Furthermore, the account information includes the user's account plan and optional user-specific customization information which is provided to the Service provider sites to permit the customization of SP services (col. 15, lines 26-34). Huberman, on the other

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hand, teaches the transaction rules and purchase conditions (see at least col. 10, lines 36-38; col. 3, line 59 – col. 4, line 18; col. 15, lines 37-43).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Teper, to include the transaction rules and purchase conditions, as taught by Huberman, in order to provide a supplier and the customer on an agreed-upon transaction to avoid entering into an unfavorable transaction (Huberman col. 3, lines 59-63).

Claims 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,815,665 to Teper et al. and U.S. Patent No. 5,826,244 to Huberman and further in view of Official Notice.

Regarding claims 3 and 10, the combination of Teper and Huberman substantially discloses the claimed invention with the exception of the conversion of information into code systems. Official Notice is taken that it is old and well known in the computer art to provide data conversion between systems. For example, it is known to convert ASCII text to HTML for compatibility with web systems. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Teper and Huberman, to include the conversion information because this would allow the agent and supplier and buyer to communicate with one another.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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U.S. Patent No. 5,802,497 to Manasse discloses a method of conducting commerce on a number of computer systems connected by a computer network including providing a broker computer system, a vendor system, and a consumer system.

U.S. Patent No. 6,343,738 to Ogilvie discloses an automatic broker tools and techniques for facilitating transaction that involve digital goods.

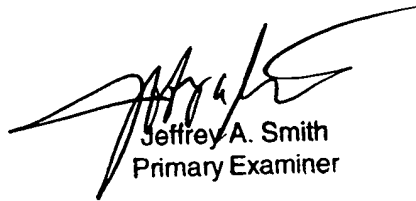
U.S. Patent No. 6,401 0880 to Bigus et al. discloses an intelligent agent with negotiating capability.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 703-305-5246. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Smith can be reached on 703-308-3588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mtot
May 28, 2004



Jeffrey A. Smith
Primary Examiner